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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/922,910	08/06/2001	Donald F. Gordon	DIVA/113CON2	9300
56015	7590	09/25/2006	EXAMINER	
PATTERSON & SHERIDAN, LLP/ SEDNA PATENT SERVICES, LLC 595 SHREWSBURY AVENUE SUITE 100 SHREWSBURY, NJ 07702			SHANG, ANNAN Q	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 09/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/922,910

Applicant(s)

GORDON ET AL.

Examiner

Annan Q. Shang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 12-20 been renumbered 11-19 respectively.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Hendricks et al (5,600,573)** in view of **Clanton, III et al (5,524,195)**.

As to claim 1, note Hendricks reference figures 1-3, discloses operations center with video storage for TV program packaging and delivery system and further discloses an interactive information distribution system containing service provider equipment and subscriber equipment (set-top terminal) that is interconnected by a communications network, the method of providing a subscription-on-demand service, comprising:

(Computer Assisted Packaging system 'CAP' of Operations Center 'OC' 202) providing a set of more than two on-demand programs; packaging the set into a subset having at least two on-demand programs..." and "providing a user interface having the subset as a selectable object..." (col.6, lines 15-43, col.7, line7-col.8, line 39).

Hendricks discloses a VOD and other program packaging process, but fails to explicitly teach where the VOD programs are package into programming package or into a subset.

However, note the **Clanton III**, reference figure 5, discloses a number of VOD programs are packaged into programming packages based on specific categories (col.8, lines 47-67).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Clanton III into the system of Hendricks in order to enable a user to select from a desired VOD or programs presented in packages based on specific categories.

4. Claims 2-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hendricks et al (5,600,573)** in view of **Clanton, III et al (5,524,195)** as applied to claim 1 above, and further in view of **DirecTV Offers MSNBC in Programming Lineup** (Los Angeles, July 15, 1996).

Hendricks further discloses where in response to selection of the selectable objects representing the subset of at least two on-demand programs, causing subscription to the programming package (col.19, 46-54), note that VOD request at the

OC 202 or HE-208 determines whether the subscriber is entitled to receive the program and whether there is sufficient funds or credit for the subscriber.

Hendricks as modified by Clanton III, fail to explicitly teach, providing a time limited access period to the subset of the at least two on-demand programs without incurring an additional fee, a time limited access period, providing subscription to the package at a predefined price

However, Directv teaches providing various programming packages by the month or predefined time (see page 2 of Directv document).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Directv into the system of Hendricks as modified by Clanton III to enable the cable operator the flexibility of packing programming as desired with predetermined the prices for predetermined time period(s) to increase revenue and furthermore to enable users to purchase or subscribe to various programming packages as desired.

As to claims 8-19, Hendricks does not explicitly teach a programming package where the programming packages are arrange in a hierarchical package of programming, comprising multiple program packages including a top level package including all of the at least two on-demand programs and at least one particular package including only a portion of the at least on-demand programs, one particular package with respective portion of at least two on-demand programs, defined according to content categories comprises one or more sports, particular teams, etc., to enable a user to select from an object representing a top level of hierarchical package

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programming, user defined program package to enable personal subscription service, causing subscription of the programming packages upon selections of the objects for predefined price for predefined time period and where the SOD service provides the content subsets at a predefined price for a predefined time period.

However, Drectv further provides programming packages: plus directv, select choice, total choice silver, etc., which are arranged in hierarchical format having subsets of programming packages within a programming package (STAR!, SHOWTIME, HBO, HBO/STAR!, HBO/STAR! II, HBO/STAR!/SHOWTIME, etc.) to enable a viewer to subscribe to a programming package subset without subscribing to an entire programming package.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Directv into the system of Hendricks as modified by Clanton III in order to continuously package a diverse lineup of quality programming to subscribers at a great value to generate income.

Response to Arguments

5. Applicant's arguments with respect to claims 1-19 have been considered but are moot in view of the new ground(s) of rejection discussed above. This office action is non-final.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Easty et al (6,448,987) disclose GUI for digital content delivery system using circular menus.

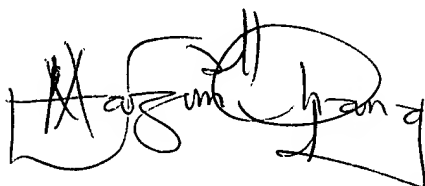
Strubbe et al (5,483,278) disclose system and method for finding a movie of interest in a large movie database.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Annan Q. Shang** whose telephone number is **571-272-7355**. The examiner can normally be reached on **700am-400pm**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Christopher S. Kelley** can be reached on **571-272-7331**. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the **Electronic Business Center (EBC) at 866-217-9197 (toll-free)**. If you would like assistance from a **USPTO Customer Service Representative** or access to the automated information system, call **800-786-9199 (IN USA OR CANADA) or 571-272-1000**.

A handwritten signature in black ink, appearing to read 'Annan Q. Shang', enclosed within a rectangular box.

Annan Q. Shang.